

AMENDMENTS TO THE CLAIMS

LISTING OF CLAIMS

1. (Currently Amended) A charcoal grill assembly including a generally non-round pan including:
 - a generally vertical wall;
 - a non-round generally horizontal base including an aperture; and
 - a drop-in ash catcher, wherein said ash catcher is vertically introduced into said aperture and is removable; and
 - a slope leading downward and inward from said wall to said aperture,
2. (Original) The charcoal grilling assembly of claim 1 further including a removable receptacle for receiving waste from said pan, said removable receptacle positioned under said aperture.
3. (Original) The charcoal grilling assembly of claim 1 wherein said pan is installed in a cart.
4. (Original) The charcoal grilling assembly of claim 3 wherein said pan has a perimeter and said cart includes a frame and said frame has an interior perimeter and said interior perimeter of said frame is less than said perimeter of said pan.

5. (Currently Amended) A charcoal grill assembly including:
 - a generally non-round pan including a base; and
 - a removable receptacle for receiving waste from said pan, wherein said removable receptacle is vertically introduced into positioned under said base of said pan,
wherein said base includes a structure for receiving said removable receptacle.
6. (Original) The charcoal grilling assembly of claim 5 wherein said base is generally horizontal and said pan includes:
 - a generally vertical wall;
 - an aperture in said base of said pan; and
 - a slope leading downward and inward from said wall to said aperture.
7. (Original) The charcoal grilling assembly of claim 5 wherein said pan is installed in a cart.
8. (Original) The charcoal grilling assembly of claim 7 wherein said pan has a perimeter and said cart includes a frame and said frame has an interior perimeter and said interior perimeter of said frame is less than said perimeter of said pan.
9. (Canceled)

10. (Canceled)

11. (Original) The charcoal grilling assembly of claim of 6 wherein said receptacle is removably positioned into said aperture.

12. (Original) The charcoal grilling assembly of claim 11 wherein said receptacle further includes a tab and said tab is used to position said receptacle into said aperture and remove said receptacle from said aperture.

13. (Currently Amended) A charcoal grill ~~assembly~~ including:

a generally non-round pan having an aperture; and
a drop-in ash catcher having a ring collar, wherein said ash catcher is vertically
introduced into said aperture and said ash catcher is supported along said ring collar by
said pan; and

a grill cart, wherein said pan is installed in said grill cart, wherein said grill cart
includes a plurality of support legs and at least one wheel is included at the bottom of
each of the support legs.

14. (Original) The charcoal grilling assembly of claim 13 wherein said pan includes:

a generally horizontal base including ~~an~~ said aperture;

a generally vertical wall; and

a slope leading downward and inward from said wall to said aperture.

15. (Currently Amended) The charcoal grilling assembly of claim 14 further including a removable receptacle for receiving waste from said pan said removable receptacle is removably positioned under into said aperture.

16. (Original) The charcoal grilling assembly of claim 13 wherein said pan has a perimeter and said cart includes a frame and said frame has an interior perimeter and said interior perimeter of said frame is less than said perimeter of said pan.

17. (Original) The charcoal grilling assembly of claim 13 wherein said cart includes wheels for assisting the movement of said cart.

18. (Currently Amended) A charcoal grill ~~assembly~~ including:

a generally non-round grill pan including a base having an aperture; and

a drop-in ash catcher having a ring collar;

wherein said ash-catcher is vertically introduced into said aperture of said pan and

is positionally maintained by the contact of said ring collar with said pan.

~~a generally non-round grill lid including a top limit; and~~

~~a vertical extent measured from said base to said top limit when said lid is positioned directly on top of said pan;~~
~~wherein said vertical extent is greater than 14 inches.~~

19. (Original) The charcoal grilling assembly of claim 18 wherein said base is generally horizontal and said pan further includes:

a generally vertical wall;
~~an aperture in said base of said pan;~~ and
a slope leading downward and inward from said wall to said aperture.

20. (Original) The charcoal grilling assembly of claim 19 further including a removable receptacle for receiving waste from said pan, said removable receptacle positioned under said aperture.

21. (Original) The charcoal grilling assembly of claim 18 wherein said pan is installed in a cart.

22. (Original) The charcoal grilling assembly of claim 21 wherein said pan has a perimeter and said cart includes a frame and said frame has an interior perimeter and said interior perimeter of said frame is less than said perimeter of said pan.

23. (Currently Amended) A charcoal grilling assembly including:

a generally non-round pan having a perimeter pan footprint comprising the lateral geometric extent of said pan; and

a grill cart having a cart footprint comprising the lateral geometric extent of said pan, wherein said pan is installed in said grill cart and said cart includes a frame having an interior perimeter;

wherein said interior perimeter of said frame cart footprint is less than said perimeter of said pan pan footprint;

wherein said grill cart includes a plurality of support legs and at least one wheel is included at the bottom of each of said support legs.

24. (Original) The charcoal grilling assembly of claim 23 wherein said base is generally horizontal and wherein said pan further includes:

an aperture in the base of said pan;

a generally vertical wall; and

a slope leading downward and inward from said wall to said aperture.

25. (Original) The charcoal grilling assembly of claim 24 further including a removable receptacle for receiving waste from said pan, said removable receptacle positioned under said aperture.

Application No. 10/016,891
Attorney Docket No. 13009US02

26. (Original) The charcoal grilling assembly of claim 23 wherein said cart includes wheels for assisting the movement of said cart.

Please add the following new claims:

27. (New) A charcoal grill including;

 a grill bottom portion having an aperture,
 an ash catcher including a ring collar wherein said ash catcher is vertically introduced into said aperture and is supported in said aperture by the contact of said ring collar with said bottom portion,
 wherein said ash catcher includes a tab to allow the ash catcher to be vertically removed from said aperture.

28. (New) The charcoal grill of claim 28 wherein said grill bottom portion is non-round.

29. (New) The charcoal grill of claim 28 wherein said grill bottom portion is installed in a cart.

Application No. 10/016,891
Attorney Docket No. 13009US02

REMARKS

The present application includes claims 1-26. By this Amendment, claims 9 and 10 have been canceled, claims 1, 5, 13, 15, 18, 23 have been amended, and new claims 27-29 have been added.

In the parent case to this application, the Examiner stated his position that the entire invention described in the present application would be better suited as a design patent application. However, design patents are limited to new and novel appearance, not function. That is, design patents are specifically prevented from claiming any new and novel functionality, as such is the province of utility patents, such as the present application. A design patent may not claim the operation of new elements in an apparatus or the use of the elements of an apparatus in a new way.

The present application sets forth a new and useful apparatus with several inventive features that differentiate the function and operation of the present apparatus from the prior art. The Examiner may feel that the claims of the present application are close to the prior art, or that the present grill looks superficially like the prior art, but this is a crowded area of the art and the functional differences between the present application and the prior art may not be immediately apparent at first glance.

However, new ash catcher configurations, such as the new configuration set forth in the present application, are not merely appearance-based design elements, as would be expected in a design patent application. On the contrary, new ash catcher configurations

Application No. 10/016,891
Attorney Docket No. 13009US02

present a new apparatus that functions in a new way from the prior art. This has been the previous findings of the U.S. PTO as shown in U.S. Patent No. 6,182,559 entitled "Ash Catcher Assembly For A Charcoal Grill", as well as U.S. Patent No. 6,155,248 entitled "Ash Catcher Assembly For A Barbecue Grill", and U.S. Patent No. 5,809,991 entitled "Ash Collection Assembly For A Barbecue Bowl", just to name a few. Such issued patents illustrate the point that new ash catcher configurations are not merely design elements, but have been found to be patentable subject matter suitable for a utility patent application.

Additionally, grill stands have been found to be the proper subject of utility patent applications as shown in U.S. Patent No. 5,794,608 entitled "Barbecue Stand" and U.S. Patent No. 6,439,221 entitled "Method And Apparatus For Providing A Portable Preassembled Grill". Even changes so small as the addition of a flange or a reconfiguration of the trays inside the barbecue grill have been shown to be patentable in U.S. Patent No. 5,566,606 entitled "Barbecue Grill" and U.S. Patent No. 5,806,510 entitled "Barbecue Tray".

My purpose here is not to berate the Examiner, but to illustrate that the present application includes several new features that, while different from the prior art, fall in the general category of new apparatus in which utility patents have been routinely granted for quite some time. The claimed innovations of the present application represent functional improvements over the prior art and should be able to secure utility patent protection, just like the utility patents cited above.

Application No. 10/016,891
Attorney Docket No. 13009US02

The Applicant, however, recognizes that the present claims must be differentiated from the prior art and looks forward to working with the Examiner to arrive at claims that the Examiner feels comfortable with. In this regard, any suggestions from the Examiner for claim elements that the Examiner would prefer to be incorporated in the claim would be thoroughly considered by the Applicant, especially proposed claim elements that are discussed with the Applicant in a teleconference at the number below.

Turning now to the present application, one of the novel aspects of the present application, as recited in the claims, is the development of an ash catcher that may be vertically removably introduced into an aperture in a grill pan. In the final office action in the parent case, U.S. Patent No. 6,363,925 to Chavana was cited as teaching these limitation. However, Chavana's ash catcher slides in from the side (horizontally) and is not vertically introduced as described at Col. 5, beginning at Line 9, "the ash pan 135 has a flanged rim 1510 via which ash pan 1235 rests on ash pan support wire 230 and along which ash pan 135 slides freely." Also, Chavana's ash catcher is not introduced into the aperture, but is instead positioned below the aperture, as described beginning at Col. 5, Line 19, "Ash pan 135 is placed directly under the open bottom portion of bottom shell 140."

The above limitations, which are not taught by Chavana, are recited in each of the independent claims, and possibly most clearly recited in new independent claim 28.